

I. Restriction Requirement

The Examiner has required restriction to one of the following inventions:

Group I: Claims 1-24, drawn to a product; and

Group II: Claim 26, drawn to a method of cleansing skin and/or hair.

Applicants elect, with traverse, Group I, claims 1-24. The restriction requirement is traversed for the following reasons.

The Examiner takes the position that Inventions I and II are “not so linked as to form a single general inventive concept under PCT Rule 13.1.” Specifically, the Examiner states that Group I and II are related as product and method of cleansing skin and/or hair using the product. Applicants respectfully submit that the examiner has raised lack of unity of invention on the basis of a narrow, literal and academic approach. As the Examiner is well aware, if there is a single general inventive concept that appears novel and involves inventive step, there is unity of invention and an objection of lack of unity does not arise. See M.P.E.P. 1850 11, page 1800-96. Here, claim 26, i.e., Group II, relates to a method of cleansing skin and/or hair comprising contacting human skin or hair with a product of claim 1. Accordingly, there is a single general inventive concept, i.e., the product of claim 1.

The Examiner takes the position that there is not a special technical feature in view of US 2002/022812 (“Kasai et al.”). Applicants respectfully disagree. Kasai et al. fails to disclose a product comprising **an applicator, other than a porous or absorbent sheet**, where to a wax phase has been applied, wherein the wax phase is a composition comprising at least one wax component selected from the group consisting of dialkyl(ene) ethers, dialkyl(ene) carbonates, dicarboxylic acids, hydroxyl fatty alcohols and mixtures thereof. In contrast, Kasai et al. relates to a disposable diaper, or sanitary napkin, incontinence pads, panty liners, etc. each comprising a porous or absorbent sheet. Nevertheless, in an effort to expedite prosecution, Applicants have amended the present claims so that the product is defined as a puff, pad, sponge, cotton ball, swab, brush, glove, mitt or bar. See Preliminary Amendment filed concurrently herewith.

Further, Applicants respectfully submit that the Examiner has failed to set forth evidence of a serious search and examination burden if restriction were not required as a search for a product and process of using that same product would not constitute a serious

search and examination burden. Accordingly, Applicants respectfully request withdrawal of the restriction requirement

II. Election of Species Requirement

The Examiner has also set forth an Election of Species requirement, requiring Applicant “to elect a single exact choice for the additional waxy component,” to be chosen from:

- A) mono-, di-, or triglycerides (claims 4-8);
- B) mono-, di-, or triglycerides and C₁₂-C₅₀- fatty alcohols (claims 9-11 and 14);
- C) fatty acids (claims 12 and 13);

The Examiner also states “Applicants are required to choose one of A), B), or C), listed above.”

Applicants respectfully traverse this requirement. First, Applicants assume the inclusion of mono-, di-, or triglycerides in group B) was a typographical error. Further, it appears that claim 14 should be included in group C) rather than group B).

Applicants traverse this requirement because, as discussed in MPEP §1850 III, B, the requirement of technical interrelationship defined in PCT Rule 13.2 shall be considered to be met with the alternatives are of a similar nature as described in Rule 13.2. Here, each of the alternatives in which the Examiner is requiring election are of a similar nature by exhibiting a common property or activity, by having a common structure, and/or because the alternatives belong to a recognized class of chemical compounds in the art to which the invention pertains.

However, to be responsive, Applicants elect, with traverse, the following:

- A) C₁₂-C₂₄ fatty acid mono-, di- or triglycerides;
- B) C₁₂-C₂₄ fatty alcohols; and
- C) C₁₂-C₄₀ fatty acids.

Claim 6 is readable on the species of group A), claim 10 is readable on the species of group B), and claims 13 is readable on the species of group C).

III. Conclusion

For the reasons set forth above, Applicants respectfully request withdrawal of all election requirements. If the Examiner feels that a discussion with Applicants' representative would be helpful in resolving the outstanding issues, the Examiner is invited to contact Applicants' representative at the number provided below.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 10-0750/J&J2127USNP/JPB. If a fee is required for an Extension of time 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account No. 10-0750/J&J2127USNP/JPB.

Respectfully submitted,

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